

REMARKS

For the Examiner's convenience and reference, Applicants' remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, are consistent with the Examiner's understanding.

STATUS OF THE CLAIMS

Claims 1-30 are currently pending in the case. Claims 1-30 stand rejected. By this Amendment, Applicants have amended claim 1 and paragraph [0014] of the specification. No new claims have been added. No new matter has been added.

OBJECTION TO THE SPECIFICATION AND CLAIMS

The specification stands objected to due to a grammatical error in paragraph [0014]. Claim 1 also stands objected to due to a grammatical error

In response, Applicants have amended paragraph [0014] and claim 1 to correct the grammatical errors identified by the Examiner. Applicants submit that these amendments overcome the Examiner's objections.

RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Pub. No. 2004/0044997 to Talati (hereinafter “Talati”) in view of U.S. Patent No. 6,658,659 to Hiller et al. (hereinafter “Hiller”).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 706.02(j).

Applicants submit that Talati and Hiller fail to render obvious the claimed invention for at least the reason that the combined references fail to disclose all of the limitations of the claimed invention. For example, claim 1 recites a “conversion module configured to selectively reconcile incompatibilities between the old code image and the new code image.” As described in Applicants’ specification, “reconcil[ing] incompatibilities” may include “adjust[ing] data structures and configuration settings such that the new code image performs at least the same functions as the old code image.” See paragraph [0076]. In other situations, “reconcil[ing] incompatibilities” may include “changing the order of initialization for storage registers, memory, or hardware devices” or “converting the format of a data structure in order for the new code image to use the data structure.” See paragraph [0043].

Neither Talati nor Hiller disclose a “conversion module” to “reconcile incompatibilities” as disclosed in Applicants’ claims and specification. Contrary to the Examiner’s assertion, Hiller does not disclose a “conversion module” as taught by Applicants but rather a “version aware”

loader that “ensures[s] that loaded software modules are compatible with one another.” See Column 3, lines 53-55. In essence, Hiller discloses installing versions of software modules that are already compatible with one another as opposed to a “conversion module” to “reconcile incompatibilities.” Thus, Hiller does not disclose the “conversion module” recited in claim 1 and disclosed in Applicants’ specification.

With respect to claim 10, neither Talati nor Hiller disclose a “bootstrap module” configured to “selectively reconcile incompatibilities between the old code image and the new code image prior to copying the new code image into the memory space occupied by the old code image.” Contrary to the Examiner’s assertion, Hiller does not disclose such a “bootstrap module” for many of the same reasons provided above. Specifically, the “version aware loader” disclosed by Hiller does not “reconcile incompatibilities,” but rather simply ensures that “loaded software modules are compatible with one another.” See Column 3, lines 53-55.

In contrast, Applicants’ invention is able to “reconcile incompatibilities” of two potentially incompatible code images by, for example, adjusting “data structures and configuration settings such that the new code image performs at least the same functions as the old code image,” “changing the order of initialization for storage registers, memory, or hardware devices,” or “converting the format of a data structure in order for the new code image to use the data structure.” See paragraphs [0043] and [0076]. Thus, Hiller does not disclose a “conversion module” to “reconcile incompatibilities” as these phrases have been used in Applicants’ claims and specification.

Applicants submit that independent claims 13, 20, 29, and 30 are allowable over the art of record for at least the reasons provide above with respect to claims 1 and 10. Furthermore,

dependent claims 2-9, 11, 12, 14-19, and 21-28 are allowable at least due to their direct or indirect dependency from independent claims 1, 10, 13, and 20.

CONCLUSION

Applicants submit that the amendments to claims 1-30 and the specification overcome the Examiner's objections and rejections and put the claims in condition for allowance. In the event the Examiner finds any remaining impediment to the prompt allowance of any of these claims, which could be clarified in a telephone conference, the Examiner is respectfully urged to initiate the same with the undersigned.

Respectfully submitted,

/Brian C. Kunzler/

Brian C. Kunzler
Reg. No. 38,527
Attorney for Applicant

Date: March 5, 2007
Kunzler & Associates
8 East Broadway, Suite 600
Salt Lake City, UT 84111
Telephone (801) 994-4646
Fax (801) 531-1929